

Washington State Department of Transportation  
15700 Dayton Avenue North  
Seattle, WA 98133

April 2, 2005

Request For Proposals  
Everett HOV Design-Build

ATTENTION: All Short-listed Proposers

### **Response To Questions No. 8**

#### **The answer to question #208 is Revised as follows:**

**Question:** Section 1-07.18 (1) 1. Workers' Compensation – Washington is a monopolistic state. Voluntary compensation, alternative employer and all states endorsements are not available through the Washington State Fund. Has WSDOT contacted Washington State Fund and have they agreed to provide? If not, these need to be eliminated for any Design-Builder to be in conformance with the contract. Can the owner eliminate these requirements?

**Response:** See Addendum #11.

#### **The answer to question #298 is revised as follows:**

**Question:** ITP Section 4.5 says Proposals may be declared non-responsive if Price exceeds the Department's budget. Is the Estimated Project Cost contained in ITP Section 1.8 (\$165 million) the same as the Department's budget?

**Response:** No. The \$165 million is the engineer's estimate for the design-build contract excluding rule ~~170~~ 720 sales tax. The Department's budget for the project is \$221.7 million, which must pay for right of way, WSDOT costs to administer the contract, the environmental process, and all other WSDOT costs expended to date in developing the RFP. The department's budget for the Design-Build contract, which is what is being referred to in the question, is more than \$165 million, and considerably less than \$221.7 million. Non-responsive has been removed from the ITP in Addendum #10.

303. **Question:** Section 2.13.3 Performance Requirements for the Drainage, discusses meeting specified water quality standards. Does the Design Builder need to treat storm water for metals for both the temporary and permanent systems?

**Response:** Design Builders are required to treat the storm water for metals for the permanent system but they are not required for the temporary system. Reference WSDOT Highway Runoff Manual 2004 for water quality standards of both temporary and permanent systems.

304. **Question:** Please refer to Technical Provision 2.30.2.7 Exclusions (D). It is generally understood that design build contract warranties do not cover any

manner of force majeure event. Technical Provision 2.30.2.7 (D) creates ambiguity, it should be deleted.

**Response:** The reference to the 100-year event was deleted by Addendum #10. Otherwise, no change.

305. **Question:** 1-05.3(2).1 Please explain the difference between the 60 day and 15 day RR Approval review times.  
**Response:** The 15 day RR approval review time was deleted in Addendum 8.
306. **Question:** GP 1-07.17(1) and GP 1-07.17(2) Utility Cost Responsibility-Para 2 of page 108 sets default responsibility to Design-Builder, Para 4 on page 109 sets default responsibility to Utility Owner. Please clarify this apparent conflict.  
**Response:** This has been modified by Addendum.
307. **Question:** ITP 1.3.2 The statement “Reliance upon the Reference Documents shall be at Proposer’s risk” is inconsistent with change order entitlement provisions contained elsewhere in the Contract (such as with respect to Differing Site Conditions). To eliminate inconsistencies in the provisions, this provision should be modified by adding at the beginning “Except to the extent set forth to the contrary in this Agreement”. A similar approach was used by WSDOT in 1-02.1.  
**Response:** “Reference Documents” are NOT part of the Contract. Refer to Appendix A. Furthermore, the type “a” differing site conditions clause is limited to Appendix G1 and G4 on this contract. Refer to Addendum #10.
308. **Question:** Please refer to question 155 and WSDOT's answer thereto. It is not practical during Proposal preparation to identify whether there are additional design Deviations intrinsic in the Basic Configuration (i.e., design elements that differ from WSDOT established standards required in the Contract) that have not been identified by WSDOT as Pre-Approved Design Deviations. If, during final design activities, the Design Builder determines that there are such additional Deviations any work necessary to obtain WSDOT approval of same, and any work associated with changes to the Project to remove or mitigate said Deviations, entitles Design Builder to equitable price and schedule relief. Please confirm that the new section 1-04.4(8) will provide Design Builder relief from delays and cost related to obtaining WSDOT approval for, and/or mitigation of, Deviations intrinsic in the Basic Configuration.  
**Response:** Refer to Addenda.
309. **Question:** ITP 2.6.1 pg 5 The statement in the second paragraph that Preliminary Geotechnical Report may not be relied up ITP 2.6.1 The statement in the second paragraph that Preliminary Geotechnical Report may not be relied upon by Proposers is inconsistent with the change order entitlement provisions contained elsewhere in the Contract (Differing Site conditions). To eliminate inconsistencies in the provisions, this provision should be modified by adding at the beginning “Except to the extent set forth to the contrary in this Agreement”.

**Response:** See Addenda.

310. **Question:** ITP 2.12.2 and ITP 4.3.2 pgs 10 & 28 “Unqualified” commitment letters from sureties are no longer generally available in the marketplace from the few substantial remaining sureties. As a result, other state DOTs have recently had to withdraw this requirement (i.e. CDOT on recent I-25 procurement). Maintaining this requirement will result in a number of bidders potentially being non-responsive. Please delete the restriction on qualifications and conditions.  
**Response:** The RFQ requested a surety letter stating the Submitter was capable of obtaining bonding for the project. These were obtained. Since then we have not heard of any other Proposers having difficulty meeting the requirements of ITP Section 2.12.2. No change will be made at this time. We have not been made aware of any difficulty with the commitment letter requirement
311. **Question:** ITP 5.2 pg 30 Can WSDOT confirm that delivery of the EPD even in a locked cabinet does not result in the EPD becoming public records for purpose of Washington’s public records act? The EPD Agreement does not seem to specify rules governing access to the EPDs? Can WSDOT confirm that if WSDOT employees make copies of portions of the EPDs that those copies do not become public records for purpose of Washington’s public records act?  
**Response:** This has been revised by Addendum.
312. **Question:** IPT 7 pgs 32 & 56 Form M. If WSDOT uses the work product of an unsuccessful proposer, it should provide an indemnity to the proposer. Otherwise, the proposer faces potential liability from third parties. In (b), the carve out for indemnity should extend to use of the work product by WSDOT or any of its contractors to provide the requisite protection stated in ITP 7. Without it, paragraph (b) should really be deleted because the successful proposer won’t be receiving the stipend in the first place and the contract’s provisions on liability are applicable.  
**Response:** No change.
313. **Question:** ITP Form A pg 40. If a proposer is a joint venture formed for this project, it will not have a good standing certificate or tax certificate in Washington. Please modify this requirement accordingly.  
**Response:** Good standing certificate was deleted by Addendum 2.
314. **Question:** Contract 1-04.5 pg 51. References to all matters being resolved in the Superior Court is inconsistent with the later provisions regarding binding arbitration of certain matters.  
**Response:** The paragraph starts with “unless otherwise noted”. No change.
315. **Question:** 1-07.1 pg 84. Are there tribal lands or reservations involved in the project? If so, can WSDOT please inform the proposers of any tribal laws that will be applicable to this project? Tribal laws are not like state or municipal laws as they are difficult to ascertain. If there are tribal laws applicable to this work,

any changes in such laws should be included in the expanded “Change in Law” provision requested previously.

**Response:** The Tribes have an interest in any aspect of the Work, which could affect their “rights”. The Environmental Assessment addressed the Tribes concern for WSDOT’s Conceptual Plans including the discharge of stormwater into the Snohomish River and the protection of salmonoid species. The “Change in Law”, Section 1-07.1 Laws To Be Observed, is consistent with WSDOT practice and will not be changed.

316. **Question:** Contract 1-09.12(3) pg 177. In item 23, there is an unusual requirement to provide worksheets, software and all other documents used to prepare a proposal required for audit purposes. WSDOT will already have the EPD which can be opened in a dispute. What is the purpose of having access to these additional documents and software for a fixed price contract.  
**Response:** This involves an audit during a claim. This requirement is taken from the WSDOT Standard Specifications which are have been used on Design-Bid-Build projects and is standard practice. No change.
317. **Question:** GP 1-07.18(1)6. The insurance marketplace does not allow Additional Insureds to be added to a professional liability policy. Please delete additional insured language.  
**Response:** This was revised by Addendum.
318. **Question:** The following are questions that have arisen after reviewing Addendum #4, Appendix W3: Wetlands E4, E5, E6, E7, and E14 all appear to have different boundaries from what was shown in the Wetland Biology Discipline report prepared by Sheldon Associates. What is the difference in the wetland boundaries and why did they change? Which boundaries are accurate?  
**Response:** This is addressed in Addendum #10.
319. **Question:** Boundaries for wetlands E4, E6, and E14 are not closed. Please provide files that show the entire wetland boundaries.  
**Response:** This is addressed in Addendum #10.
320. **Question:** Wetland E5 doesn’t appear in the new drawings unless it is now part of Wetland E14. Please clarify.  
**Response:** This is addressed in Addendum #10.
321. **Question:** Wetland E8 appears to have different boundaries and it is unclear due to the placement of the match line whether this wetland is now a part of the E-line wetland or not. Please verify the boundaries of the E8 and the E-line wetland.  
**Response:** This is addressed in Addendum #10.
322. **Question:** Wetland E18 is not shown in Appendix W3 but was shown in the Discipline report. Is Wetland E18 no longer jurisdictional?  
**Response:** This is addressed in Addendum #10.

323. **Question:** It is not clear from the new figures how wetland E8 and E-line wetland fit together. Please provide clarification.  
**Response:** This is addressed in Addendum #10.
324. **Question:** It appears that there are different boundaries shown for Wetland E10. Why did they change?  
**Response:** This is addressed in Addendum #10.
325. **Question:** The boundaries for Wetland E11 are not closed. Please provide the complete boundaries of this wetland.  
**Response:** This is addressed in Addendum #10.
326. **Question:** It appears that there are new boundaries shown for Wetland E20. Why did they change?  
**Response:** This is addressed in Addendum #10.
327. **Question:** Is Wetland E21 no longer jurisdictional because the new figures do not show this wetland as being present in the ROW? Why is this not considered to be a jurisdictional wetland?  
**Response:** This is addressed in Addendum #10.
328. **Question:** Please clarify the wetland area shown on Sheet 15 of 24. Only a portion of a wetland polygon is shown within the ROW north of Cascade view and East of I-5. Is this a wetland or not? The wetland discipline report for the RFP did not show wetlands in this area.  
**Response:** This is addressed in Addendum #10.
329. **Question:** It appears that there are new boundaries shown for Wetland W1. Why did they change? Also, this wetland boundary is not closed. Please provide entire boundaries for this wetland.  
**Response:** This is addressed in Addendum #10.
330. **Question:** The northern edge of Wetland E1 is not closed off to show a complete wetland. Please provide complete boundaries.  
**Response:** This is addressed in Addendum #10.
331. **Question:** Sheets 19 and 20 of Appendix W3 in Addendum #4 show a grass ditch and grass bioswale. Appendix E4 (Wetland Biology Report) shows that these areas are Wetlands C and D. Please confirm that Wetlands C and D are NOT jurisdictional wetlands and are constructed water quality facilities.  
**Response:** This is addressed in Addendum #10.
332. **Question:** Provide survey Data for Wetland WQ-3 as described in the Wetland Biology Report on page 5-36.  
**Response:** WSDOT does not have this information. RNB

333. **Question:** Please confirm the Live Load design criteria for the 5/628 N-N flyover bridge. The governing design criteria for this becomes the AASHTO Guide Specifications for Horizontally Curved Steel Girder Highway Bridges, 2003 (HCSGHB), because the AASHTO LRFD 3<sup>rd</sup> Edition does not cover the design of curved girders. The HCSGH, section 3.5 indicates that the Live Load design will be a HS load specified by the owner. Also see WSDOT LRFD BDM Section 3.1.2, LFD Guide Specifications are not covered. WSDOT has not specified a HS loading for this bridge.  
**Response:** The Design-Builder shall use HS-25 for strength and overload checks, and fixed axle HS-20 for fatigue checks. That will be using AASHTO 17th edition and the 2003 guide spec for curved girders. CP
334. **Question:** Page 127, Section 2.13.5.4: Who approves the shop drawings, the engineer on the design-build team or WSDOT?  
**Response:** WSDOT will have the opportunity to review and comment on the shop drawings. Approval for Release For Construction documents is the responsibility of the Design-Builder.
335. **Question:** RFP Appendix H, Stormwater Technical Report: MGS Flood Calculations: Why was Puget East Region 10 with 36 inches MAP used instead of Puget East Region 11 with 40 inches MAP? Project seems closer to Region 11.  
**Response:** The hydraulic modeling performed, as part of the conceptual design is conceptual and provided as an informational reference. The Design-Builder Hydraulic Engineer for the Project needs to make the determination as to what applies for the project. Rgb
336. **Question:** Can WSDOT provide the MGS Flood calculations for WQF #4, 5 & 6? They do not appear to be included in the Stormwater Technical Report.  
**Response:** No additional information is being provided. The proposers will need to perform the calculations for these and any other water quality facilities.
337. **Question:** Addendum #4, Appendix P3, Section 404 CWA – NWP 18 Page 2: Where is the December 29, 2004 corrected wetland delineation? Is that Appendix W3 of Addendum #4?  
**Response:** RFP Appendix W3 was deleted in Addendum 10. The wetland delineations shown in the hardcopy of the Final Wetland/Biology Technical Report (RFP Appendix E4) supercedes all other wetland delineation information provided either electronically or in hardcopy.
338. **Question:** Addendum #4, Appendix P1, HPA Page 1: Where are the energy dissipater cross Sections Sheets 8 and 9 dated November 2004? Are they the same as what is in Appendix P3? Also, the HPA indicates that there are modifications to the energy dissipater; where are the modifications?

**Response:** Sheets 8 & 9 dated November 2004 are the same as what is in Appendix P3. The modifications are additional requirements listed on the HPA #21-25.

339. **Question:** Reference Addendum 7 item 11, Section 2.12.4.5 Bridge Approach Slabs, upon field investigation, we have confirmed that all existing structures have approach slabs. This is contrary to the as-builts that were provided. Therefore, since the DB contractor will be placing new approach slabs at all the widened structures and installing joint seals between the new widened structure and the new approach slab, will the DB Contractor be required to replace the joint seals at the existing portion of the structures? Please review and clarify.

**Response:** Yes, when a new approach slab abuts an existing, the existing joint seal gland shall be removed. A new strip seal gland (compression seal) shall be installed in one continuous strip across both the existing and new approach slabs. Field splicing of the gland material will not be permitted.

340. **Question:** In response to question/answer #96, there are clearly areas of existing pavement that contain large cracks and even some evidence of significant sapling. If these panels can remain in place, then is the Design-Builder responsible for any “transmittal” cracking in the new adjacent widening panels? This will most likely occur as a result of the tie bars attaching the two slabs longitudinally.

**Response:** Yes, the Design-Builder will be responsible for the “transmittal cracking.

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Project Director